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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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IN THE MATTER OF THE REORGANIZATION
OF UNS CORPORATION.

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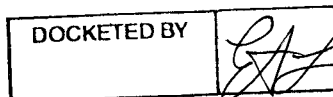
**CITY OF NOGALES' CLOSING
BRIEF**

Notice is hereby provided that the City of Nogales is submitting its Closing Brief for the hearing that took place in this matter on June 16 and 17, 2014.

Respectfully submitted on this 1ST day of July, 2014.

Arizona Corporation Commission
DOCKETED

JUL 2 2014



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By

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1 Applicants UNS Energy Corporation ("UNS"), on behalf of its affiliates, and Fortis Inc.
2 seek approval of the proposed Settlement Agreement that has been reached with many of the
3 intervenors here. Applicants contend that the pending reorganization, as modified by the
4 Settlement Agreement, meets the standards of Arizona Administrative Code R14-2-803(C), and
5 therefore should be recommended for approval by this tribunal. This issue was the subject of a
6 hearing that took place before this tribunal on June 16 and 17, 2014.
7

8 In addition to this rule-based inquiry, however, Applicants have further requested that
9 this tribunal find that the Settlement Agreement is in the public interest. While Intervenor City
10 of Nogales ("Nogales") does not contend that the reorganization, as modified by the Settlement
11 Agreement, fails to meet the standards of R14-2-803(C), nevertheless, if this tribunal is going to
12 accept Applicants' invitation and comment on whether the Settlement Agreement furthers the
13 public interest, then it should find that the public interest would be best served if the Settlement
14 Agreement also resolved Nogales' issue for which it seeks resolution here, which is that UNS
15 has chosen to close its customer service office in Nogales in what appears to be a clear violation
16 of its franchise agreement, forcing its customers who pay in cash to do so at one of three local
17 retail establishments, each of which charges the customer a transaction fee for each payment
18 received from between \$1 to \$1.50.
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22 Because cash-payers tend to be disproportionately lower income persons, the burden
23 created by UNS' decision to close its Nogales customer service office falls disproportionately
24 on the poor. Nogales has intervened in this matter to advocate on their behalf and seeks to give
25 voice to these otherwise voiceless UNS customers. Although this topic had been the subject of
26 earlier negotiations between Nogales and UNS, raising it here should have resulted in a quick
27 resolution of a matter that seems eminently capable of resolution at a relatively modest cost.
28

1 Thus, because Applicants have sought this tribunal's comment and stamp of approval
2 that the Settlement Agreement is in the public interest, this tribunal should state frankly that the
3 public interest would be better served if the Settlement Agreement included a resolution to this
4 issue as well. Any ruling recommending in favor of the Commission's adoption of the
5 Settlement Agreement and approval of the pending reorganization should therefore be
6 conditioned on Applicants' taking meaningful and concrete measures to resolve this issue with
7 Nogales. Such a condition attached to a favorable ruling here would be no more than accepting
8 Applicants' statement at face value that they are committed to working constructively with all
9 stakeholders in their service areas.
10

11 PROPOSED FINDINGS 12

13 1. The City of Nogales intervened in this administrative action to seek resolution of a
14 conflict with UNS regarding its closure of the customer service office in Nogales. Testimony
15 of Shane Dille, Nogales City Manager at p. 3.
16

17 2. Nogales contends that the closure violates Section 8 of UNS' franchise agreements
18 approved by the voters in Nogales in 2004. Franchise Agreement, Nogales Exhibit 1, at p. 5.

19 3. Nogales had expected that, once raised, this issue could be fairly quickly resolved.
20 Testimony of Nubar Hanessian, Nogales Vice-mayor. Mr. Hanessian further commented that
21 this dispute between Nogales and UNS was not "a fight to the death."
22

23 4. Settlement discussions in this matter were set by procedural order to take place in
24 Phoenix on Monday, May 5, 2014. Nogales sought and was given another date to discuss its
25 issues with UNS representatives in its Tucson office. Testimony of Barry V. Parry, Vice-
26 President of Fortis, Inc.
27
28

1 5. Mr. Perry was present in person in Phoenix for settlement discussions. *Id.* No one from
2 Fortis was present during Nogales' later discussions with UNS representatives. *Id.*

3 6. While not participating in negotiations with Nogales in person, David Hutchens' position
4 is that this venue is the wrong place to raise them. Testimony of David G. Hutchens. He
5 appeared to be hostile to Nogales' efforts to advocate for its constituents in this matter. *Id.*

6 7. Mr. Hutchens would not even agree that if the issue regarding UNS' closure of its
7 Nogales office could not be resolved and the matter moved to litigation in the Santa Cruz County
8 Superior Court, that this would represent a "lose-lose" situation for the parties. *Id.*

9 8. Mr. Hutchens appeared to believe that Nogales had not properly sought resolution of this
10 issue with UNS by not being present at the settlement discussions that took place in Phoenix on
11 May 5, 2014. *Id.*

12 9. Lower income persons in Nogales still very commonly pay their bills in cash.
13 Testimony of Nubar Hanessian.

14 10. Persons currently must pay transaction fees of between \$1.00 and \$1.50 to pay monthly
15 UNS bills in cash in Nogales. Customer Survey Response, Nogales Exhibit 2.

16 PROPOSED CONCLUSIONS
17

- 18 1. The interest of the public is best served through a settlement agreement that resolves all
19 intervenor issues.
20
21 2. Litigation in the superior court between Nogales and UNS regarding an alleged breach of
22 a term of UNS' franchise agreement with Nogales is not in the best interest of the public
23 because of the resources of both parties that will have to be expended in such litigation.
24
25 3. The burden of paying transaction fees of \$1.00 or \$1.50 per bill that is paid in cash in
26 Nogales falls disproportionately on lower income persons.
27
28

- 1 4. The dispute between Nogales and UNS regarding the burden placed on lower income
2 UNS customers who tend to pay in cash due directly arising from UNS's decision to
3 close its customer service office in Nogales appears to be readily capable of resolution.
- 4 5. A favorable ruling issued by this tribunal, recommending that the Commission adopt the
5 proposed Settlement Agreement and approve the pending reorganization of Applicants,
6 shall be conditioned on UNS undertaking meaningful measures to resolve the situation in
7 Nogales where lower income customers disproportionately bear the cost for paying their
8 bills in case via transaction fees charged by third-party retail stores.
9

Original and 13 copies of the foregoing
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